

Serial No. 10/657,060
Docket No. F05-185919M/MI
NGB.080REI

REMARKS

As a preliminary matter, Applicants' representative would like to thank Special Program Examiner, Randolph Reese, for courtesies extended in the telephonic interview conducted on March 13, 2006.

In the telephonic interview, the following was discussed:

A. Identification of claims discussed:

None.

B. Identification of prior art discussed:

None.

C. Identification of principal proposed amendments:

None.

D. Brief Identification of principal arguments:

To summarize, a Second Amendment After-final under 37 C.F.R. § 1.116, a corrected supplemental oath/declaration under 37 C.F.R. § 1.175(b)(1), and a Statement of Substance of Interview, was filed on August 1, 2005, thereby overcoming the rejection under 35 U.S.C. § 251 and placing all of the pending claims (i.e., allowable claims 1-14 and 16-19) in condition for immediate allowance.

Also, Primary Examiner, Roger L. Pang issued an "official" Examiner's Interview Summary, which was mailed on August 18, 2005, which stated, in Part II, that the "*changes to the required new Oath were discussed and approved*" (emphasis added). The Interview

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Summary also stated, in Part III, that "*the interview directly resulted in the allowance of the application*" (emphasis added).

However, in numerous telephone interviews and voice messages, Applicants' representative noted that the status of the Notice of Allowance in this case had not been updated in the U.S.P.T.O. Patent Application Retrieval (PAIR) website.

In each case, the Examiner's assured Applicants that the present application was in condition for allowance and that no further response was necessary to maintain the pending status of the present application. Particularly, Examiner Reese stated that the expiration of the six (6) month statutory period had been tolled (i.e., stopped) by the counting of the Notice of Allowance in the USPTO PALM system. Therefore, Examiner Reese stated that no further response from Applicants was necessary to maintain the pendency of the present application.

Applicants' representative again noted that the status of the Notice of Allowance in this case had not been updated in the U.S.P.T.O. Patent Application Retrieval (PAIR) website. Therefore, Applicants filed a Notice of Appeal and a Petition for a three-month Extension of Time on September 30, 2005 merely to ensure that the pendency of the present application was maintained until such time as the Notice of Allowance would be issued.

Numerous additional telephone conferences have been conducted with Special Program Examiner, Randolph Reese, and the conduct of those interviews has been entered into the record by Applicants' previously filed Statements of Substance of the Interview.

Telephonic Interview of March 13, 2006

In the telephonic interview conducted on March 13, 2006, Special Program Examiner, Randolph Reese, kindly informed Applicants that the erroneous status of the

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present application had been corrected in the USPTO PAIR system to correspond to the correct status shown in the USPTO PALM system. Particularly, the status of the present application has now been updated to properly indicate the status of the application as "*Allowance Counted*", as of the August 17, 2005, in accordance with the "official" Examiner's Interview Summary, which was mailed on August 18, 2005, and which indicated that the application is in condition for allowance. A copy of the PAIR Application Data dated March 13, 2006 indicating the correct status of the present application, is attached herewith.

E. Results of the Telephonic Interview:

Examiner Reese again agreed and confirmed that no further response is necessary from Applicants to maintain the pendency of the present application since the mailing of the official Examiner's Interview Summary on August 18, 2005, and the "allowed" status of the application, have tolled (i.e., stopped) the statutory time period for reply to the final Office Action.

Examiner Reese agreed and confirmed that it is not necessary for Applicants to file an Appeal Brief (or a Request for Continued Examination) to maintain the pendency of the present application. Examiner Reese agreed and confirmed that the present application currently is, and will remain, pending without a further response from Applicants.

The Examiner apologized for the Patent Office's delay in issuing the Notice of Allowance, which the Examiner stated has been caused by extensive "backlogs" in this Technology Center of the USPTO. The Examiner stated that additional personnel have been hired to expedite the issuance of the Notice of Allowances. The Supervisory Patent

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Examiner stated that the "official" Notice of Allowance for the present application will be issued in due course. However, the Supervisor speculated that the Notice of Allowance in this case will be mailed near the end of May or in early April, due to the extensive backlog in this Technology Center of the U.S. Patent Office.

In the telephonic interview, Applicants' representative again expressed the concern that this case has now been in condition for allowance since August 17, 2005, and that Applicants' reliance on the statements that the Notice of Allowance would be issued shortly have resulted in Applicants having to pay extension of time fees.

The Supervisory Patent Examiner apologized for the Patent Office's delay in issuing the Notice of Allowance and stated that, since the Examiner issued an official Interview Summary stating that the application is in condition for allowance, and since the PAIR system now properly indicates the status of the application as the "allowance" has been counted, no further response is necessary by Applicants. The Supervisory Patent Examiner specifically agreed and confirmed that the application will not go abandoned if no further response is filed by Applicants.

Examiner Reese also stated that Applicants may be entitled to a refund of the previously paid fees associated with obtaining the extensions of time and the filing of the Notice of Appeal, since these fees were incurred by Applicants as a result of Patent Office error in failing to properly update the correct status of the present application. Applicants' representative stated that Applicants will file a Request for Refund of such fees for consideration by the appropriate Patent Office official.

Applicants submit this paper to clarify for the record the conduct of the telephonic interview conducted on March 13, 2006, and to ensure that the record is clear with respect

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to the "allowed" status of the present application and that no further response by Applicants is necessary to maintain the pendency of the present application.

F. Conclusion:

No fees are believed to be necessary. However, to the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. The Commissioner is hereby authorized to charge any deficiency in fees, including extension of time fees, or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date: MARCH 30, 2006




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CERTIFICATE OF TRANSMISSION

I certify that I transmitted via facsimile to (571) 273-8300 the enclosed Statement of Substance of Telephonic Interview to Examiner Roger L. Pang, Art Unit 3681, and Randolph Reese, Special Program Examiner on March 30, 2006.



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